Attorney Docket No. <u>1963-4727</u>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : FILEPP et al.

Serial No. : To Be Assigned
[Continuation of
08/740,043]

Filed : September 18, 1997

For : INTERACTIVE COMPUTER NETWORK
AND METHOD OF OPERATION

Anticipated Classification of this application:

Class ___<u>395</u>___ Subclass ____<u>800</u>____

<u>Prior Application</u>
Examiner: M. B. Geckil

Group Art Unit: 2302

FILING UNDER 37 C.F.R. § 1.60

ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

Sir:

1. [X] This is a request for filing a [X] Continuation [ ] Divisional application under 37 C.F.R. § 1.60, of pending parent Application Serial No. <u>08/740,043</u> of Filepp et al (list each inventor) filed on <u>October 23, 1996, now pending</u>. Parent Application Serial No. 08/740,043 is a Rule 60 division of Application Serial No. 08/158,026, filed November 26, 1993. The copy of the parent application papers referred to below is a copy of the papers of Application Serial No. 08/158,026 which constitute, pursuant to Rule 60, the application papers of Application Serial No. 08/740,043.

2. [X] The attached papers are a true copy of the above-identified parent application as filed, including the oath or declaration originally filed (37 C.F.R. § 1.60), and no amendments referred to in the oath or declaration filed to complete the parent application introduced new matter therein.

3. [X] The copy of the papers of the parent application as filed which are attached are as follows:

[X] <u>153</u> page(s) of specification

[X] <u>6</u> page(s) of claims

[X] <u>1</u> page(s) of abstract

[X] <u>16</u> page(s) of drawings

[X] <u>4</u> page(s) of supplemental declaration and power of attorney

[X] in accordance with 37 C.F.R. § 1.60(b), our records reflect that the original signed declaration showing applicants' signatures was filed on <u>November 26, 1993</u> in application Serial No. <u>08/158,026</u>.

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EXPRESS MAIL LABEL NO. <u>EG297329075US</u>

[ ] _____ page(s) of Sequence Listing

[ ] _____ computer disk(s) containing Sequence Listing

[ ] _____ computer disk containing original Sequence Listing previously submitted with application Serial No. _____, filed _____.

[ ] Statement under 37 C.F.R. § 1.821(f) that computer and paper copies of the Sequence Listing are the same.

[ ] Other

4. [X] Cancel in this application original claims <u>1 to 9 and 24 to 32</u> of the parent application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

5. [X] A Preliminary Amendment and accompanying Amendment Fee Transmittal are enclosed. (Claims added by this Amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

CLAIMS FOR FEE CALCULATION

	Number	Number Extra	Rate for Non-Small Entity	Basic Fee $770.00
Total* Claims	14 - 20	0	x $22.00	$ 0
Independent Claims	1 - 3	0	x $80.00	$ 0
Multiple Dependent Claim(s)	[ ] yes Addt'l Fee [X] no None		$260.00 ----	$ 0

Filing Fee Calculation $ <u>770.00</u>

6. [ ] A verified statement that this filing is by a small entity is attached or has been filed in the parent application and its benefit under 37 C.F.R. § 1.28(a) is hereby claimed. Reduced fees under 37 C.F.R. § 1.9(f) (50% of total) paid herewith $ _____.

7. [X] The status of the parent application is as follows:

_____

* Includes all independent and single dependent claims and all claims referred to in multiple dependent claims. See 37 C.F.R. § 1.75(c).

319842 1   EXPRESS MAIL LABEL NO. <u>EG297329075US</u>

[ ]   A Petition For Extension of Time, and Fee therefor has been or is being filed in the parent application to extend the term for action in the parent application until _____ _____.

[ ]   A copy of the Petition for Extension of Time in the copending parent application is attached.

[X]   No Petition For Extension of Time and Fee therefor are necessary in the copending parent application.

8.   [ ]   Please abandon the parent application at a time while the parent application is pending or at a time when the petition for extension of time in that application is granted and while this application is pending and has been granted a filing date, so as to make this application copending with said parent application. ATTACHED IS AN EXPRESS ABANDONMENT FOR FILING IN THE PARENT APPLICATION FILE.

9.   [X]   Transfer the drawing(s) from the parent application to this application.

10.   [ ]   New drawings are enclosed: [ ] formal   [ ] informal

11.   [ ]   Priority of application Serial No. _____, filed on _____ in _____ is claimed under 35 U.S.C. § 119.

    a.   [ ]   The certified copy is on file

        [ ] in the above-identified parent application.

        [ ] application Serial No. _____.

    b.   [ ]   The certified copy will follow.

    c.   [ ]   The certified copy is enclosed herewith.

    d.   [ ]   The certified English translation

        [ ] is enclosed

        [ ] is on file in application Serial No. _____.

12.   [ ]   Amend the specification by inserting before the first line the sentence:

    This is a [ ] continuation [ ] divisional of co-pending application Serial No. _____ filed _____.

13.   a.   [ ]   With respect to the inventorship of the copending parent application from which this application claims benefit under 35 U.S.C. § 120, the inventor(s) in this application is (are) less than those named in the copending parent application and the following inventor(s) should be deleted from this application:

_____.

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    EXPRESS MAIL LABEL NO. EG297329075US

A Petition requesting correction of inventorship for this application in accordance with 37 C.F.R. §§1.48 and 1.60(b) is enclosed.

b.   [ ]   In view of the granting of the Petition requesting correction of inventorship in (parent) application Serial No. _____, filed _____, this application is being filed in the name of the corrected inventive entity.

14.   [ ]   The parent application is assigned of record to _____, recorded on _____, Reel _____, Frame _____.

15.   [X]   A check in the amount of $ 770.00 _____ to cover the filing fee is attached.

16.   [ ]   Charge fee to **Deposit Account No. 13-4500.** Order No. _____. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

17.   [X]   The Assistant Commissioner is hereby authorized to charge any additional fees which may be required for filing this application, or credit any overpayment to Deposit Account No. 13-4500. Order No. 1963-4727. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

18.   [X]   The power of attorney in the parent application is to:

Paul C. Scifo _____

a.   [ ]   The power was filed in the parent application and a copy is enclosed.

b.   [X]   A new associate power has been executed and is attached.

c.   [X]   Address all future communications in the present continuation application only to:
Israel Blum, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Israel Blum

By: Israel Blum
Reg. No. 26,710

Dated: September 18, 1997

Mailing Address:
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

      EXPRESS MAIL LABEL NO. EG297329075US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	FILEPP et al.	Group Art Unit: To Be Assigned [2302]
Serial No.	:	To Be Assigned [Continuation of 08/740,043]	Examiner: To Be Assigned [M.B. Geckil]
Filed	:	September 18, 1997	
For	:	INTERACTIVE COMPUTER NETWORK AND METHOD OF OPERATION	

EXPRESS MAIL CERTIFICATE

Express Mail Label No. EG297329075US

Date of Deposit September 18, 1997

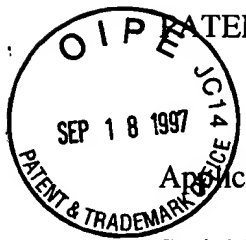I hereby certify that the following attached paper(s) or fee

1. Filing Under 37 C.F.R. §1.60
2. Copy of Parent Application Serial No. 08/740,043
3. Preliminary Amendment
4. Amendment Fee Transmittal
5. Request for Declaration of an Interference Under 37 C.F.R. §1.607
6. Associate Power of Attorney
7. Return post card
8. Check for $770.00 for filing under 37 C.F.R. §1.60
9. Check for $908.00 for claims added in Preliminary Amendment

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under

37 C.F.R. §1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks,

Washington, D.C. 20231.

John W. Osborne
(Typed or printed name of person
mailing paper(s) or fee)

(Signature of person mailing
paper(s) or fee)

Mailing Address:
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154
(212) 758-4800

319944 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Filepp et al.	Group Art Unit: To Be Assigned [2302]
Serial No.	:	To Be Assigned [Continuation of 08/740,043]	Examiner: To Be Assigned [M.B. Geckil]
Filed	:	September 18, 1996	
For	:	INTERACTIVE COMPUTER NETWORK AND METHOD OF OPERATION	

AMENDMENT FEE TRANSMITTAL

ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

Sir:

Transmitted herewith is an Amendment for the above-identified application.

[X]   The additional fee has been calculated as shown below:

CLAIMS AS AMENDED

	Claims Remaining After Amendment	Highest No. Covered by Previous Payments	Present Extra	Rate	Additional Fee
Total Claims*	54 - 20	=	34	x $22.00	$ 748.00
Independent Claims	5 - 3	=	2	x $80.00	$ 160.00
Multiple Dependent Claim(s)	(If claims added by amendment include Multiple Dependent Claim(s) and there was no Multiple Dependent Claim(s) in application before amendment add $260.00)				$ 0
				Total:	$ 908.00

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*   Includes all independent and single dependent claims and all claims referred to in multiple dependent claims. See 37 C.F.R. § 1.75(c).

[　]   ____ Page(s) of substitute Sequence Listing

[　]   ____ Computer disk(s) containing substitute Sequence Listing

[　]   Statement under 37 C.F.R. § 1.825(b) that the computer and paper copies of the substitute Sequence Listing are the same.

[X]   A check in the amount of $_908.00_ to cover the filing fee is attached.

[　]   Charge fee to Deposit Account No. 13-4500. Order No. _____.
A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

[X]   The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500. Order No. <u>1963-4727</u>. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: September 18, 1997   By:_*Israel Blum*_____

                                             Israel Blum
                                           Registration No. 26,710

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320105_1

ATTORNEY DOCKET NO. <u>1963-4727</u>

<u>IN THE UNITED STATES PATENT AND TRADEMARK OFFICE</u>

Applicants : Filepp et al. Group Art Unit: To Be Assigned
[2302]

Serial No. : To Be Assigned
[Continuation of Examiner: To Be Assigned
08/740,043] [M.B. Geckil]

Filed : September 18, 1997

For : INTERACTIVE COMPUTER NETWORK AND METHOD OF
OPERATION

<div align="center">
REQUEST FOR DECLARATION OF AN
<u>INTERFERENCE UNDER 37 C.F.R. §1.607</u>
</div>

Honorable Commissioner of Patents and Trademarks
Washington, DC 20231

Sir:

Pursuant to the provisions of 37 C.F.R. §1.607, Applicants respectfully request that
an interference be declared between the above-identified patent application and U.S. Patent
No. 5,528,490 to Charles E. Hill ("the Hill '490 patent"). The Hill '490 patent issued on
June 18, 1996 from an application filed on April 10, 1992. A copy of the Hill '490 patent is
annexed hereto as **Exhibit A.**

The instant application, a continuation of Application Serial No. 08/740,043 ("the
'043 application") filed October 23, 1996, was filed specifically to provoke an interference
with the Hill '490 patent by presenting claims therein that correspond to the same subject
matter claimed in Claims 1-40 of the Hill '490 patent. New Claims 33 to 72, submitted by a
Preliminary Amendment filed contemporaneously herewith and incorporated by reference
herein, are copied from and correspond to Claims 1-40, respectively, of the Hill '490 patent.
Claims 33 to 72 are supported by the Filepp et al. disclosure as shown by the Preliminary

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Amendment submitted herewith. Applicants should be named as the senior party in the interference because Hill's earliest effective filing date is April 10, 1992, which is later than the effective filing date of July 28, 1989 to which Applicants are entitled. At least one claim -- Claim 10 -- of the '043 application was directed to the same subject matter as the Hill '490 patent claims, in accordance with 35 U.S.C. §135(b).

1.   Proposal of Count

Applicants propose as the Count for the interference Claim 1 of the Hill '490 patent and Claim 33 of the present application.

Proposed Count

A method for generating information related to a product, the method comprising the steps of:

storing and maintaining variable data and constant data related to at least one product and a main revision status in a memory of a main computer, the main revision status indicating the revision level of the constant data stored in the main computer;

storing constant data related to the at least one product and a remote revision status in a memory of a remote computer, the constant data being a subset of information data related to the at least one product, the remote revision status indicating the revision level of the constant data stored in the remote computer;

transmitting the remote revision status from the remote computer to the main computer;

comparing the remote revision status with the main revision status;

updating constant data stored in the memory of the remote computer with constant data maintained in the memory of the main computer that is different from the constant data stored in the memory of the remote computer;

transmitting variable data related to the at least one product from the main computer to the remote computer; and

integrating constant data related to the at least one product with the variable data related to the at least one product in the remote computer to generate the information data related to the at least one product including both constant data and variable data.

2. <u>Identification of Claims Corresponding to Proposed Count</u>

A. <u>Claims Of Hill '490 Patent</u>

Claims 1 to 40 of the Hill '490 patent correspond to the proposed Count. Claim 1 of the Hill '490 patent is identical to the proposed count. Claim 1 of the Hill '490 patent is directed to a method for generating information related to a product comprising the steps of storing frequently changing ("variable") data and infrequently changing ("constant") data on a main computer, storing the revision level of the constant data on the main computer, storing constant data on a remote computer along with its revision status, comparing the remote constant data revision status with the main constant data revision status and updating remotely stored data that is not current, transmitting variable data to the remote computer and integrating the constant and variable data to generate information about a product at the remote computer. Claims 2-14 of the Hill '490 patent depend from Claim 1 and include the same subject matter as Claim 1. As such, Claims 2-14 of the Hill '490 patent correspond to the proposed Count.

Claim 15 of the Hill '490 patent is directed to a method for producing information related to a selected product which comprises the same steps as Claim 1 with the additional step of selecting a product from the remote computer memory for which information is desired. In other words, the method of Claim 15 is the same as that of Claim 1. As such, Claim 15 includes the same subject matter as Claim 1 and thus Claim 15 also corresponds to the proposed Count. Claims 16-29 of the Hill '490 patent depend from Claim 15 and include the same subject matter as Claim 15. Accordingly, Claims 16-29 of the '490 patent correspond to the proposed Count.

Claim 30 is directed to an electronic catalog system and is a system counterpart to Claim 15. As such, Claim 30 includes the same subject matter as Claims 1 and 15 and Claim 30 also corresponds to the proposed Count. Claims 31-34 of the Hill '490 patent

depend from Claim 30 and include the same subject matter as Claim 30. As such, Claims 31-34 of the Hill '490 patent correspond to the proposed Count.

Claim 35 is also directed to an electronic catalog system. Claim 35 is essentially the same as Claim 30 except that Claim 30's recitation of revision status checking is replaced by "means for" language related to the aspect of updating constant data at the remote computer. As such, Claim 35 includes the same subject matter as Claims 1, 15 and 30 and Claim 35 also corresponds to the proposed Count. Claims 36-40 of the Hill '490 patent depend from Claim 35 and include the same subject matter as Claim 35. As such, Claims 36-40 of the Hill '490 patent correspond to the proposed Count.

B.   Claims of Applicants

Claims 10 and 33-72 of the above-identified application correspond to the proposed Count.

Applicants' Claims 33-72 are identical to Claims 1-40, respectively, of the Hill '490 patent. As such, Applicants' Claims 33-72 correspond to the proposed Count for the same reasons that Claims 1-40 of the Hill '490 patent correspond to the proposed Count.

Applicants' Claim 10 also corresponds to the proposed Count because it is directed to the same subject matter as Hill's Claims 1-40. Claim 10 is directed to the same subject matter as Hill's Claim 1 as shown below. Thus, Applicants' Claim 10 also corresponds to the proposed Count.

3.   Comparison of Hill '490 Patent Claims With Applicants' Claims

Hill Claims 1-40 correspond exactly to Applicants' Claims 33-72, respectively.

As shown below, Applicants' Claim 10 is also directed to the same subject matter as Hill's Claim 1. Both Hill Claim 1 and Filepp et al. Claim 10 are directed to a method for providing requested information about a product or service to a user of a remote computer in a computer network.

The Hill '490 patent claims are directed to a method and apparatus for generating information about products at a remote computer by combining information stored at the remote computer with information that is obtained from a main computer. The information

stored at the remote computer is considered "constant" and is thus not subject to rapid change. The information obtained from the main computer is considered "variable" because it changes frequently. When called, the constant information is version checked and updated if necessary before it is used.

<p style="margin-left:2em">A.   The Filepp Et Al. Method And System Are Directed To The Same Subject Matter As The Hill '490 Patent Claims</p>

The Filepp et al. method and system, like that disclosed in the later Hill application, was designed to reduce the time and cost required to deliver interactive applications or information requested by subscribers for presentation at remote subscriber terminals. The subscriber terminals comprise a remote personal computer at which reception software is maintained. Each remote terminal is called a subscriber reception system ("RS").

To realize reduced application delivery time and delivery cost, the Filepp et al. method and system is directed to minimizing the network data traffic required to present subscriber-requested applications or information. This is accomplished by enabling each subscriber RS to perform a substantial portion of the data processing necessary to generate requested applications, such as catalog shopping, travel planning, news review, etc., and by enabling the RSs to reuse the data and programs employed in presenting applications. Thus, a data storage facility is provided at each subscriber RS for retaining at least a portion of the data required to run requested applications.

Further, because of the limited storage resources typically available at a RS, the program code and display data of Filepp et al. that make up applications are organized as data objects. Applications can thus be distributed in the network such that at least some of the objects required to produce subscriber-requested applications are likely to be found at the subscriber's RS, and to the extent objects required to present the application are unavailable at the respective RSs, those objects may be obtained on request from a main computer -- via what is called the network object delivery system -- which includes the network host and communication concentrator units.

As a further aspect of the Filepp et al. method and system, objects are maintained at the respective RSs in accordance with a storage eligibility parameter which is dependent upon, inter alia, the tendency of the respective application or program objects and the data they contain to change over time. Objects may contain, e.g., program instructions (i.e., portions of a program) or data that slowly vary over time, i.e., constant data, having a high storage eligibility; and objects may include program instructions or data that quickly change over time; i.e., variable data, having a low storage eligibility. In this regard, to the extent objects and their associated program instructions or data change very slowly with time; i.e., are constant, they may be afforded persistent storage status at the remote computer -- i.e., RS -- subject only to updating for currency if they do become stale; and, to the extent objects and their associated data change quickly with time, i.e., are variable, they may be afforded no continuing storage at the RS, so that such objects are requested from a main computer -- i.e., the network delivery system -- when required.

Additionally, in accordance with the Filepp et al. method and system, objects are provided with a version identification to assure currency of objects stored at a subscriber RS. At the time a subscriber requests information which necessarily involves some application, the subscriber's RS calls for the objects required to generate that application from the RS storage facility. For objects stored locally (i.e., constant data), the object version identifications are transmitted to the network delivery system (i.e., main computer) and checked there to assure currency of the respective stored objects. If the object version is current, the network delivery system returns a message to the RS denoting that the object can be used. If the version identification indicates the object is not current, a new, current, object is sent to the RS.

If objects required for the application are not stored locally, for example, where the objects include quickly changing data, those objects will be sought and obtained from the network delivery system. As objects required to generate the requested application are collected at the RS, the application is presented to the subscriber.

In sum, the Filepp et al. method and system, like those of Hill, use (a) constant program instructions and data stored at a remote RS which are version checked when accessed and updated from the network delivery system (or main computer) if necessary and

(b) variable program instructions and data which are accessed from the network delivery system when they are requested by a user at the remote RS. Thus, the claims of Filepp et al., copied from the claims of the Hill patent and pending in a Filepp et al. parent application within one year of Hill's issue date, are directed to the same subject matter as the claims of Hill.

B.   Although Hill's Claims 1-40 And Filepp Et Al. Claim 10 Use
        Different Terminology, They Are Directed To The Same Subject Matter

Hill's claims are directed to storing and transmitting data and programs between a user's computer and another computer remote from the user's computer via a modem type connection. Filepp et al's Claim 10 is directed to applications containing data and program instructions (part of a program) called "objects".

Hill's claim term for a user's computer is "remote". Hill's claim terminology for a computer remote from the user's computer which supplies updated constant data and programs and variable data and programs to the user's computer is "main" computer. Filepp et al's claim terminology for the user's computer is "reception system" or "RS". Filepp et al's claim terminology for the main computer which transmits data and program instructions to the user's computer is the "network" which Filepp et al. disclose as the "network delivery system" (or main computer).

Hill's claim terminology for data and programs that do not change frequently and are thus stored at a user's computer is "constant". Hill's claim terminology for data and programs that change frequently and are thus not stored at a user's computer between sessions is "variable". Filepp et al's objects comprised of data and program instructions (i.e., portions of a program) fall within a broad range of susceptibility to change or update. Constant and variable data and programs as described and claimed by Hill are actually subsets of the range of data and program permanency described by Filepp et al.

Hill's claim terminology for an indicator of program and data currency, i.e., whether a program or data is stale or is the most current available is "revision status". Filepp et al's terminology for program and data currency is "version id". Filepp et al's terminology for an

indicator of the propriety of storing programs or data at a user's computer is "storage candidacy value". Both version id and storage candidacy value are encompassed within Filepp et al's claim recitation of a "predetermined plan" of data distribution, as discussed below.

C.   Detailed Comparison Of Hill And Filepp Et Al. Claims

As shown in detail by the following chart and immediately following textual discussion, Claim 1 of the Hill '490 patent and Claim 10 of the Filepp et al. application, which was made in the parent to the instant application within one year after the Hill '490 patent issued, are directed to the same subject matter.

HILL UNITED STATES PATENT NO. 5,528,490	FILEPP et al. UNITED STATES PATENT APPLICATION
1. A method for generating information related to a product, the method comprising the steps of: storing and maintaining variable data and constant data related to at least one product and a main revision status in a memory of a main computer, the main revision status indicating the revision level of the constant data stored in the main computer; storing constant data related to the at least one product and a remote revision status in a memory of a remote computer, the constant data being a subset of information data related to the at least one product, the remote revision status indicating the revision level of the constant data stored in the remote computer; transmitting the remote revision status from the remote computer to the main computer; comparing the remote revision status with the main revision status; updating constant data stored in the memory of the remote computer with constant data maintained in the memory of the main computer that is different from the constant data stored in the memory of the remote computer; transmitting variable data related to the at least one product from the main computer to the remote computer; and integrating constant data related to the at least one product with the variable data related to the at least one product in the remote computer to generate the information data related to the at least one product including both constant data and variable data.	10. A method for operating a computer network having a multiplicity of reception systems at which respective users can request applications that include interactive services, the method comprising the steps of: a. organizing the applications into objects that collectively include data and executable program instructions for generating the applications; b. distributing selected objects in accordance with a predetermined plan within the network; and c. supplying objects to a respective reception system computer at which an application is requested to enable the respective reception system computer to selectively collect objects required for the application from the network and the respective reception system so that the requested application may be presented at the respective reception system based on the objects collected.

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a.   Hill And Filepp Et. Al. Both Store Constant And Variable Data
       At A Main Computer Along With The Constant Data Revision Status

The first element of Hill Claim 1 is the step of storing data that changes or is revised frequently ("variable" data) and data that does not change frequently ("constant" data) in the memory of a network or "main" computer. Hill's recitation of storing variable and constant data at the main computer is matched by Filepp et al's recitation in Claim 10 of "distributing selected objects [containing data and program instructions]... within the network" for storing and maintaining the most current data at the network delivery system (or main computer) for downloading to the remote computer (i.e., the RS). The Filepp et al. disclosure supports Filepp et al. Claim 10's language regarding the distribution of objects within the network as constituting the same subject matter as Hill's storing of constant and variable data on a main computer. As can be seen from the specification, Filepp et al's network delivery system transmits data to a requesting RS, and routes data entered by the user or collected at the RS within the network. P. 13, lines 1-10.

As for constant and variable data, Filepp et al. disclose, at p. 137, line 6 - p. 138, line 26 that objects can have different storage candidacy values which dictate whether and for how long objects (program instructions and data) are stored at the RS. Two of these (the first and second values) correspond to Hill's variable data in that they indicate different degrees of variable data:

> A first candidacy value is applied where the object is very sensitive to time; e.g., news items, volatile pricing information such as might apply to stock quotes, etc. In accordance with this first value, the object will not be permitted to be stored on RS 400, and RS 400 will have to request such objects from delivery system 20 each time it is accessed, thus, assuring currency. A second value is applied where the object is sensitive to time but less so than the first case; e.g., the price of apples in a grocery shopping application. Here, while the price might change from day to day, it is unlikely to change during a session. Accordingly the object will be permitted to persist in RAM or at the disk cache during a session but will not be permitted to be maintained at RS 400 between sessions.

P. 137, lines 8-19. Other (the third and fifth) values corresponds to Hill's constant data:

[W]here the object concerns information sufficiently stable to be maintained between sessions a third storage candidacy value is set to permit the object to be stored at RS 400 between sessions, on condition that the object will be version check[ed] the first time it is accessed in a subsequent session.

P. 137, lines 20-25.

Where the object is of a type required to be stored at RS 400, as for example, objects needed to support standard screens, it is coded for storage between sessions ... However, where such objects are likely to change in the future they may be required to be version checked the first time they are accessed in a session and thus [are] given a fifth storage candidacy value.

P. 138, lines 1-7. Variable data therefore does not persist at the remote computer, it is retrieved from the network delivery system (or "main" computer) at which it is stored. Constant data, as noted above, is stored on the RS but is version checked when accessed. Thus, as noted, the most current constant data is always available from the network delivery system (or main computer).

As for revision level, Filepp et al. disclose that objects carry their version id with them in their respective headers and, accordingly, wherever the object is stored, so too is its version id. Objects are provided with a coded version id made up of the storage control byte and version control bytes identified above as elements of the object header. P. 135, lines 22-28. Since the object's version id is part of the object, the version of an object is stored wherever the object is stored. Consequently, the latest version level of the object resides at the network delivery system (or main computer). P. 13, lines 1-10.

b.   The Step Of Storing Constant Data And A
      Constant Data Revision Status At The Remote
      Computer Is The Same In Hill And Filepp Et Al.

The second element of Hill Claim 1 is the step of storing a part of the constant data in the memory of the remote computer. Hill's recitation of storing the requested constant data at the remote computer is further matched by Filepp et al's recitation in Claim 10 of "distributing selected objects [containing data and program instructions] in accordance with a predetermined plan within the network" (including supplying objects to the RS). Filepp et al's disclosure supports the Claim 10 language regarding distributing objects within the network as constituting the same subject matter as Hill Claim 1's recitation of storing constant data at the remote computer.

As indicated above, objects having the third or fifth storage candidacy value constitute constant data. Filepp et al. disclose that "[Objects carry application program instructions and/or information for display at [the] monitor screen... of [the] RS." P. 9, lines 29-30. The RS includes means for selectively storing program instructions and display data in the form of objects. The objects are stored at the RS in accordance with a predetermined storage criteria P. 10, lines 13-27. Filepp et al. further disclose that "to effect object storage management, objects are provided with a coded version id made up of the storage control byte and version control bytes" which are "elements of the object header." P. 135, lines 22-28. The currency of objects stored at the RS is established by virtue of the object's storage control parameters and a check of the object version identification prior to use. P. 10, lines 13-19.

c.   The Step Of Comparing The Remote Revision Status With
      The Main Revision Status And Updating Of Constant Data
      Based Thereon Is The Same In Hill And Filepp Et Al.

The third element of Hill Claim 1 is the step of comparing the version of the constant data stored in the memory of the remote computer with the version of the same data stored in the memory of the main computer (i.e., network delivery system) and updating the constant data at the remote computer so as to maintain currency of the constant data available

to the user. Filepp et al's corresponding recitation in Claim 10, of "distributing selected objects [containing data and program instructions] in accordance with a predetermined plan within the network" includes, inter alia, selective updating of stale data based on version checking. Filepp et al's disclosure supports this claim language as encompassing the same subject matter as the Hill Claim 1 revision status checking and updating recitation. The Filepp et. al. specification states in this regard:

> In preferred form, the method aspect of the invention includes steps for organizing the applications into objects that collectively include data and executable program instructions for generating the applications, as well as steps for distributing selected objects within the network in accordance with a predetermined plan based on the likelihood a user will request a particular application.

P. 5, lines 1-7.

> [T]he method aspect of operating the preferred form of the network apparatus includes steps for establishing data stores ... and, thereafter, distributing application data to data stores ... in accordance with a predetermined plan designed to reduce the time required to present a requested application.

P. 5, lines 20-27.

> [T]o render a public informational and transactional network of the type considered here attractive, the network must be both economical to use and fast. That is to say the network must supply information and transactional support to the user at minimal costs and with a minimal response time. In accordance with the present invention, these objectives are sought to be achieved by locating as many information and transactional support objects which the user is likely to request, as close to the user as possible, i.e., primarily at the user's RS 400 and secondarily at delivery system 20. In this way, the user will be able to access objects required to support a desired application with minimal intervention of delivery system 20, thus reducing the cost of the session and speeding the response time.

P. 134, line 29 - p. 135, line 5.

> Additionally, to assure currency of the information and
> transaction support provided at RS 400, objects are further
> coded for version identification and checking in accordance with
> a system of priorities that are reflected in the storage candidacy
> coding.

P. 135, lines 17-21. Thus, the recitation of a predetermined plan of information distribution

constitutes, inter alia, version identification and checking so that stale information is not

used. Filepp et al. further state with regard to version checking to maintain currency of

remotely stored information:

> When objects are requested from object storage facility 439,
> only the latest version of the object will be provided to
> guarantee currency of information to the user. Object storage
> facility 439 assures currency by requesting version verification
> from network 10 for those objects which are available locally
> and by requesting objects which are not locally available from
> delivery system 20 where currency is maintained.

P. 133, lines 7-13.

> The version value of the object ... provides a parameter that can
> be checked against predetermined values available from delivery
> system 20 to determine whether an object stored at RS 400 is
> sufficiently current to permit its continued use, or whether the
> object has become stale and needs to be replaced with a current
> object from delivery system 20.

P. 135, lines 36 - p. 136, line 5.

> [D]elivery system 20 will advise the reception system 400 either
> that the version i.d. of the stored object matches the currency
> value, i.e., the stored object is acceptable, or deliver a current
> object that will replace the stored object shown to be stale.

P. 139, lines 27-30. Thus, Claim 10 of the Filepp et al. application is directed to selective

transmission of data to maintain currency of constant data stored at the remote computer,

which is the same as transmitting and comparing a remote revision status with a main revision status and updating based on that comparison as recited by Hill's Claim 1.

d. The Step Of Transmitting Variable Data
From The Main Computer To The Remote
Computer Is The Same In Hill And Filepp Et Al.

The fourth element of Hill Claim 1 is the step of transmitting variable data from the network delivery system to the remote computer. Filepp et al's disclosure supports the corresponding Claim 10 recitation of "supplying objects [including variable data] to a respective reception system" for the transmission of variable data to the remote computer. In this regard, Filepp et al. disclose that data that changes frequently does not persist on the remote computer beyond, at most, a particular user session, but rather is retrieved from the main computer (i.e., the network delivery system):

> A first candidacy value is applied where the object is very
> sensitive to time; e.g., news items, volatile pricing information
> such as might apply to stock quotes, etc. In accordance with
> this first value, the object will not be permitted to be stored on
> RS 400, and RS 400 will have to request such objects from
> delivery system 20 each time it is accessed, thus, assuring
> currency. A second value is applied where the object is
> sensitive to time but less so than the first case; e.g., the price of
> apples in a grocery shopping application. Here, while the price
> might change from day to day it is unlikely to change during a
> session. Accordingly, the object will be permitted to persist in
> RAM or at the disk cache during a session, but will not be
> permitted to be maintained at RS 400 between sessions.

Filepp et al., p. 137, lines 8-19.

e. The Step Of Combining Constant And Variable Data At
The Remote Computer Is The Same In Hill And Filepp Et Al.

The fifth element of Hill Claim 1 is the step of collecting and combining the constant data stored at the remote computer with variable data which is transmitted from the network computer to provide the requested information about the product or service to the

user of the remote computer. Filepp et al's disclosure supports the Claim 10 recitation of "supplying objects to a respective reception system... so that the requested application may be presented at the respective reception system based on the objects collected" as constituting the collecting and combining of constant and variable data to provide information to a user at the remote computer. In this regard, Filepp et al. give the example of a user at the remote computer purchasing an apple through the network. The price of an apple is transmitted from the network because it is data that changes so frequently that there is no point in storing it at the RS (corresponding to Hill's variable data). P. 137, lines 13-19. At p. 148, line 26 - p. 153, line 10, the entire procedure by which the user interacts with the RS and the network to purchase apples is detailed. Again, at p. 149, line 36, the price of an apple is obtained from the network delivery system (or main computer) after being selected from the RS. The presentation data etc. related to the interactive apple purchase corresponds to Hill's constant data and is stored at the RS because it does not change frequently. The constant presentation data etc. related to the purchase of apples is clearly shown in Filepp et al. Fig. 3b, with blank spaces for the variable price data transmitted from the network. Thus, Filepp et al. disclose, inter alia, integrating constant data related to an apple purchase stored at an RS with variable data related to, e.g., the price of an apple obtained from the network.

In accordance with 37 C.F.R. §1.607(a)(6) and 35 U.S.C. §135(b), Applicants have specifically identified claims herein which were made on October 23, 1996, the filing date of the parent of the instant application, for substantially the same subject matter as Claims 1-40 of the Hill patent. The Hill patent issued on June 18, 1996, and, hence, Claim 10 identified herein was made within one year from the date on which the Hill patent was granted. Applicants are therefore entitled to present additional claims directed to the same subject matter. MPEP §2307.02; Tezuka v. Wilson, 224 USPQ 1030, 1036 (Bd. Pat. Int. 1984).

4.   Effective Filing Date

Applicants are entitled to a priority date of at least July 28, 1989 because the specification and drawings of the above-identified application are identical in all pertinent respects to the specification and drawings filed in each patent application to which Applicants

claim benefit under 35 U.S.C. § 120 ("the benefit applications") beginning at least as early as the continuation-in-part application filed July 28, 1989. The benefit applications are U.S. Serial No. 08/740,043, filed October 23, 1996, now pending; which is a division of U.S. Serial No. 08/158,026, filed November 26, 1993, which issued January 14, 1997 as U.S. Patent No. 5,594,910; which is a division of U.S. Serial No. 07/388,156, filed July 28, 1989, which issued September 13, 1994 as U.S. Patent No. 5,347,632. Application Serial No. 07/388,156 is a continuation-in-part of U.S. Serial No. 07/328,790, filed March 23, 1989, now abandoned; which is a continuation-in-part of U.S. Serial No. 07/219,931, filed July 15, 1988, now abandoned.

As shown in the Preliminary Amendment submitted contemporaneously herewith, Applicants' Claims 33 to 72 are fully supported by the disclosures in the specification and drawings of the above-identified patent application and therefore are also supported by the specification and drawings of each of the benefit applications identified above going back to at least the benefit of U.S. Serial No. 07/388,156. Because Applicants' benefit application filed July 28, 1989, U.S. Serial No. 07/388,156, fully supports Claims 33-72, as shown in the Preliminary Amendment submitted herewith, and Claim 10, as shown above, Applicants are entitled to an effective filing date of at least July 28, 1989.

CONCLUSION

Applicants' Claims 33-72, respectively, define the same subject matter as the Hill '490 patent Claims 1-40. In addition, Applicants' Claim 10 also is directed to the same

subject matter as the Hill '490 patent Claim 1. An interference should be declared using the Count proposed herein.

Respectfully submitted,

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